IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4293 OF 2005

Jitendra Shivajiba Patel & Ors ...Applicants

Versus

Sheetal Sham Partnership Firm
and others ...Respondents

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Mr. Harshad E. Palve, Advocate for Applicants.

Mr. D.P. Adsule, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 14TH JULY, 2005

P. C.:-

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State.

2. The applicants have prayed for quashing of Complaint No. 846/96 which is pending in the Court of learned J.M.F.C. 10th Court at Nashik. In the said case, process has been issued against the applicants under Section 138 of Negotiable Instruments Act. The learned advocate for the applicants submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicants is set aside, the

proceedings in respect of the applicants would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the applicants states that the necessary revision would be preferred within a period of three weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of three weeks from today.

5. It is also prayed that by order dated 15.6.2005, the learned Magistrate has issued non bailable warrant against the applicants and the said N.B.W. be quashed. I am not inclined to quash the N.B.W. as in my view, it would be appropriate that the applicants prefer an application before the

Magistrate for setting aside the said N.B.W. In order to enable the applicants to take necessary steps for setting aside the N.B.W. before the Magistrate, the said N.B.W. are stayed for a period of five weeks from today.

6. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Application is disposed of.

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